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IN THE COURT OF APPEALS OF INDIANA

STEVEN BARLOW,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 79A05-0609-CR-478
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE TIPPECANOE SUPERIOR COURT 2
The Honorable Thomas H. Busch, Judge
Cause No. 79D02-0510-FA-26

May 17, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Steven Barlow appeals his convictions for two counts of Burglary Resulting in Bodily Injury,[1] a class A felony, Criminal Confinement,[2] a class B felony, two counts of Theft,[3] a class D felony, Burglary of a Dwelling,[4] a class B felony, and Rape While Armed with a Deadly Weapon,[5] a class A felony. Specifically, Barlow argues that the trial court erred by partially denying his motion to sever, admitting his confessions into evidence, and denying his motions for a mistrial. Additionally, Barlow argues that the trial court improperly ordered that some of his sentences be served consecutively. Finding no error, we affirm the judgment of the trial court.

FACTS

At approximately 4:50 a.m. on July 23, 2005, Venessa Hicks, who was seven months pregnant, was asleep in her Lafayette residence. She awakened when she heard her bedroom door open. Thinking that it might be her boyfriend, Hicks went to the door and stepped into the hallway. She looked to her right and observed a man, later determined to be Barlow, holding a large knife and coming toward her. Hicks grabbed the knife blade but Barlow got behind her, grabbed her, and pulled her down into a sitting position on the floor. Barlow attempted to place a pillowcase over Hicks's head, but Hicks struggled and said that she did not want a pillowcase over her head. Hicks told Barlow that she was pregnant and that she had approximately $40 in her purse, which was on her bed. Barlow then put the pillowcase

[1] Ind. Code § 35-43-2-1(2)(A).

[2] Ind. Code §§ 35-42-3-3(a)(1), -(b)(2).

[3] I.C. § 35-43-4-2(a).

[4] I.C. § 35-43-2-1(1)(B)(i).

[5] I.C. § 35-42-4-1(b)(2).

over Hicks's head and led her to the edge of the bed to sit. He got behind her and pulled the pillowcase so tight that she had trouble breathing. Hicks told Barlow that she could not breathe and began to panic and claw at Barlow, at which point he loosened his grip on the pillowcase. Hicks managed to remove the pillowcase and began to wrestle with Barlow, biting his arm. Barlow hit Hicks twice in the back of the head and on her jaw, causing her pain and making her "see stars . . . ." Tr. p. 123-24, 155. Hicks fell off of the bed and onto the floor; Barlow fell down with her. He held the knife to her throat, telling her that if she let go of him, he would leave. Hicks loosened her grip on Barlow, who stood up, picked up her purse, and walked out the bedroom door.

Barlow then walked back into the bedroom and told her to get on the floor, which she did. She remained on the floor until she heard the back door close, at which point she got up, grabbed her three-year-old son, and ran to the neighbor's house. The neighbors called the police and an ambulance. Hicks went to the hospital and was treated for her injuries. Subsequently, a large knife was discovered in a neighbor's yard and Hicks's purse was found with her money missing but still containing her identification.

At approximately 3:30 a.m. on July 26, 2005, Carol Horan was asleep in her West Lafayette home. She awoke to discover a man, later identified as Barlow, standing in her bedroom, holding a large knife, and attempting to turn on a light. Horan told Barlow that he was in the wrong house and that he should get out. Horan yelled for her son and pulled the blankets in front of her face. After Horan's son yelled back at her, she heard the front door slam. Her son arrived in her bedroom to make sure that she was alright and Horan then went

downstairs to call the police. After the police arrived, Horan discovered that her purse was open and that her cell phone, keys, and $80 were missing. A butcher's knife was also missing from a block of knives sitting on the kitchen counter. Horan's keys and the knife were subsequently recovered, and the police requested that Horan keep her cell phone account active. Her cell phone records were analyzed and traced for several days, ultimately leading the police to suspect that Barlow committed the crimes at issue herein.

At approximately 5:30 a.m. on that same day, July 26, 2005, N.G. was asleep on a couch in her Lafayette residence. Her seven-year-old grandson was asleep at the other end of the couch. N.G. woke up and observed a man, later identified as Barlow, standing over her. Barlow put a pillowcase over her head and wrapped it tightly around her neck. He pulled N.G. off of the couch. N.G. told Barlow not to hurt her grandson, and Barlow replied that if she did not scream it would be alright. Barlow pulled N.G. toward the kitchen and asked her for money; she replied that she had some money on the kitchen table but he walked her into her grandson's bedroom instead. Barlow tied N.G.'s hands behind her back with a cord and wrapped part of the cord around her neck, restricting her breathing and causing her pain.

Barlow pulled N.G.'s pants and underwear down and told her to get on the floor, which she did. Barlow pulled her pants and underwear completely off, held a knife to her throat, and told her not to scream. He then penetrated her vagina with his penis. Barlow told N.G. to count to ten before she got up, and when the pressure of the pillowcase around her neck loosened, she realized that he had left. N.G. could not untie herself, so she walked to the foot of the stairs and called for her daughter, who found N.G., removed the pillowcase,

and untied her. N.G. called the police and then went to the hospital, where her injuries were treated and samples were taken for evidence and analysis. She had bruises on her neck, scratches on her arms, and tearing and bruising in her vaginal area. Later that same day, N.G.'s neighbor discovered a large knife in her yard.

Ultimately, DNA evidence and Horan's cell phone records led the police to suspect Barlow as the perpetrator of these offenses. Barlow was extradited from Arizona[6] and transported back to Lafayette on October 5, 2005. Lafayette Police Detective Cecil Johnson advised Barlow of his rights, and after Barlow signed a written waiver of those rights, Detective Johnson questioned Barlow, who confessed to committing the crimes.

On October 13, 2005, the State charged Barlow with:

- Count I, class B felony burglary of a dwelling, Count II, class D felony auto theft, Count III, class D felony theft, and Count IV, class D felony theft, all based on incidents not at issue herein;

- Count V, class A felony burglary resulting in bodily injury, Count VI, class B felony criminal confinement, and Count VII, class D felony theft, all based on the Hicks incident;

- Count VIII, class B felony burglary of a dwelling, and Count IX, class D felony theft, based on the Horan incident;

- Count X, class A felony rape while armed with a deadly weapon, Count XI, class A felony burglary resulting in bodily injury, and Count XII, class B felony criminal confinement, based on the N.G. incident;

- Count XIII, class A felony criminal deviate conduct, Count XIV, class A felony burglary resulting in bodily injury, Count XV, class D felony theft, and Count XVI, class A felony burglary resulting in bodily injury, based on incidents not at issue herein.

[6] Barlow had been in jail in Arizona on unrelated charges for approximately forty days at the time of the extradition.

Barlow moved to sever the counts for trial. On June 19, 2006, after a hearing, the trial court granted the motion in part, severing Counts I-IV and XIII-XVI. The trial court allowed the State to try Counts V-XII together, renumbering them as Counts I-VIII for the purpose of trial. The renumbered Counts I-VIII are the charges and convictions at issue in this appeal. Barlow renewed the motion to sever both prior to trial and following the trial's conclusion, but the trial court denied the renewed motions.

On July 7, 2006, Barlow moved to suppress his confessions to the crimes, arguing that the police had unconstitutionally proceeded with a custodial interrogation even after Barlow had requested the services of an attorney. On July 17, 2006, the trial court denied Barlow's motion.

Barlow's jury trial commenced on July 18, 2006. During the trial, two different witnesses made statements that led Barlow to make two motions for a mistrial. On both occasions, the trial court admonished the jury to disregard the problematic testimony and denied the motion for mistrial. On July 20, 2006, at the conclusion of the trial, the jury found Barlow guilty as charged.

On August 17, 2006, the trial court sentenced Barlow as follows: thirty years of imprisonment for Count I, burglary resulting in bodily injury; ten years of imprisonment for Count II, criminal confinement; one and one-half years of imprisonment for Count III, theft; twenty years of imprisonment for Count IV, burglary of a dwelling; one and one-half years of imprisonment for Count V, theft; thirty years of imprisonment for Count VI, rape while armed with a deadly weapon; and thirty years for Count VII, burglary resulting in bodily

injury.[7] The trial court ordered Counts I, II, IV, VI, and VII to be served consecutively, with the remaining counts to be served concurrently. Thus, the trial court imposed an aggregate executed sentence of one hundred twenty years. Barlow now appeals.

DISCUSSION AND DECISION

I. Motion to Sever

Prior to trial, Barlow moved to sever the counts for trial. The State argued, and the trial court agreed, that some, but not all, of the charges should be severed. Following a hearing, the trial court granted Barlow's motion in part and ordered the original Counts I-IV and XIII-XVI severed. Barlow objected to the partial severance, arguing that the remaining counts should also be severed because they were based on three separate incidents. Barlow now argues that the trial court erred by partially denying the motion to sever.

The decision to grant or deny a motion to sever is within the discretion of the trial court and we will uphold that decision absent a showing of clear error. Waldon v. State, 829 N.E.2d 168, 174 (Ind. Ct. App. 2005), trans. denied. We will only reverse and order new, separate trials if the defendant establishes that, "in light of what actually occurred at trial, the denial of a separate trial subjected him to such prejudice that the trial court abused its discretion in refusing to grant his motion for severance." Brown v. State, 650 N.E.2d 304, 306 (Ind. 1995).

Two or more offenses may be joined in the same information when the offenses are (1) of the same or similar character, even if not part of a single scheme or plan, or (2) are

[7] The trial court neither entered judgment of conviction nor sentenced Barlow on Count VIII, criminal confinement, because it was factually included in Counts VI and VII.

based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan. Ind. Code § 35-34-1-9. If two or more offenses are joined in the same information solely upon the ground that they are of the same or similar character, the defendant has a right to a severance of the offenses. I.C. § 35-34-1-11. In all other cases, the court shall grant a severance if the court determines that severance is appropriate to promote a fair determination of the defendant's guilt or innocence of each offense. Id. In so doing, the trial court must consider the number of offenses charged, the complexity of the evidence to be offered, and whether the factfinder will be able to distinguish the evidence and apply the law intelligently as to each offense. Id.

To be sufficiently connected as a single scheme or plan to justify joinder, the State must establish that (1) the charges are connected by a distinctive nature, (2) a common modus operandi linked the crimes, and (3) the same motive induced the criminal behavior in each instance. Wilkerson v. State, 728 N.E.2d 239, 246 (Ind. Ct. App. 2000). "Modus operandi" refers to a pattern of criminal behavior so distinctive that separate crimes may be recognized as the work of the same wrongdoer. Id. The methodology of the crimes must be so strikingly similar and unique that the crimes may be attributed to a single person. Harvey v. State, 719 N.E.2d 406, 409 (Ind. Ct. App. 1999).

Here, the Hicks incident occurred only seventy-two hours prior to the Horan and N.G. incidents, which occurred within two hours of each other. All three incidents occurred in Tippecanoe County. All of the crimes involved breaking into and entering homes in the very early morning while the residents were at home and asleep. Each of the incidents was a

crime of opportunity in that Barlow discovered an unlocked entrance—a door or window—and entered the residence without having to physically break open an entryway. Barlow wielded a knife in each of the incidents—he threatened Hicks and N.G. with a knife and was holding a knife when he entered Horan's bedroom. Each of the three victims was a middle-aged white woman. Because Barlow fled Horan's residence when he heard her son coming to her aid, that incident was comparatively shorter than the other two.

Barlow threatened Hicks and N.G. with harm if they did not cooperate and give him money. He covered both women's heads with a pillowcase and wound it so tightly around their necks that they had difficulty breathing. He stole money and other items, including a purse, a knife, a cell phone, and keys, from both women. Barlow stole a knife from Horan's kitchen and then used it to threaten N.G. as he raped her; N.G.'s neighbor discovered that knife on her property later the same day.

Although, as Barlow points out, the crimes are not identical to one another, the severance rule does not require that they be so. To the contrary, to join the charges in the same charging information, the State need establish only that the charges are connected by a distinctive nature, a common modus operandi linked the crimes, and the same motive induced the criminal behavior in each instance. Wilkerson, 728 N.E.2d at 246. These crimes are connected in time and by geography. They share the same distinctive nature and a common modus operandi—entering through an unlocked entryway in the early morning hours, wielding a knife, placing a pillowcase tightly over the victim's head, and stealing money and other items. The same motive—burglary—induced the criminal behavior in each

incident. Under these circumstances, we find that the State properly established that severance was not a matter of right and was, instead, within the trial court's discretion.

In considering Barlow's motion to sever, the trial court was required to consider the number of offenses charged, the complexity of the evidence to be offered, and whether the factfinder would have been able to distinguish the evidence and apply the law intelligently as to each offense. I.C. § 35-34-1-11. The State joined eight counts to try together, and although eight counts is "not typical," appellee's br. p. 14, it is not so unusual or overwhelming as to deny Barlow a fair trial. Moreover, the eight counts essentially involve only four crimes—burglary, rape, theft, and criminal confinement—and the elements of those crimes are not particularly complex or difficult to understand.

The evidence primarily consisted of eyewitness testimony. Although there were a number of witnesses, the evidence was not complicated or difficult to understand. And although the State's case involved DNA evidence, that evidence was neither extensive nor complex. The State offered expert testimony to explain the nature of DNA evidence to the jury and presented it in a straightforward manner. Thus, the evidence was not particularly complex.

Finally, the trial court could have reasonably concluded that the jury was able to distinguish the evidence and apply the law intelligently as to each offense. The State presented its evidence clearly and in chronological order. The jury was able to separate the evidence presented by each victim and judge each victim's credibility individually. The evidence was not so complex and confusing that the jury would have been unable to

distinguish one crime from another. Under these circumstances, we conclude that the trial court did not abuse its discretion in denying Barlow's motion to sever the charges.

II. Confessions

Barlow next argues that the trial court erred by admitting his confessions to the crimes into evidence at trial. See Washington v. State, 784 N.E.2d 584, 587 (Ind. Ct. App. 2003) (holding that a challenge to evidence following a completed trial is more appropriately framed as whether the trial court erred by admitting the evidence rather than whether it erred by denying the motion to suppress). The admission of evidence is within the trial court's sound discretion and we will reverse only upon finding an abuse of that discretion. Wilson v. State, 765 N.E.2d 1265, 1272 (Ind. 2002). An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances before it. Id. In determining the admissibility of evidence, we will consider only the evidence in favor of the trial court's ruling and unrefuted evidence in the defendant's favor. Sallee v. State, 777 N.E.2d 1204, 1210 (Ind. Ct. App. 2002). We will not reverse the trial court's decision to admit evidence if that decision is sustainable on any ground. Crawford v. State, 770 N.E.2d 775, 780 (Ind. 2002).

Barlow argues that the police took his statements in violation of his right against self-incrimination as set forth in the Fifth Amendment to the United States Constitution and Article I, Section 14 of the Indiana Constitution. See Ajabu v. State, 693 N.E.2d 921, 933-35 (Ind. 1998) (holding that the right against self-incrimination contained in the state constitution is coextensive with that right as set forth in the federal constitution;

consequently, an analysis under the Fifth Amendment is sufficient to reach a conclusion as to both the federal and state constitutional right). Police are required to inform persons subjected to custodial interrogation of their right to remain silent and their right to be assisted by counsel during the interrogation. Miranda v. Arizona, 384 U.S. 436, 471-72 (1966). A defendant may waive these rights after being advised thereof, but if the defendant invokes these rights, then the questioning must cease. Id. at 473-74.

If a defendant requests the assistance of counsel, the police may not conduct any further interrogation until counsel is present unless the accused initiates further communication or conversation with the police by evincing a desire or willingness for a generalized discussion about the investigation. Oregon v. Bradshaw, 462 U.S. 1039, 1043-46 (1983). To invoke the right to the assistance of counsel, a person in custody must make, at a minimum, some statement that can reasonably be construed to be an expression of a desire for the assistance of an attorney. Taylor v. State, 689 N.E.2d 699, 703 (Ind. 1997). The request must be unambiguous and sufficiently clear that a reasonable police officer would understand the statement to be a request for an attorney. Id.; see also Davis v. United States, 512 U.S. 452, 462 (1994) (holding that the defendant's statement, "maybe I should talk to a lawyer," was not a sufficiently clear request for the assistance of counsel). Police have no duty to cease questioning when an equivocal request for counsel is made, nor are they required to ask clarifying questions to determine whether the suspect actually wants an attorney. Taylor, 689 N.E.2d at 703. Similarly, a person must do more than express reluctance to talk to invoke his right to remain silent. Id. at 705.

Here, Lafayette Police Detective Herb Robinson transported Barlow from Phoenix, Arizona, to Lafayette on the morning of October 5, 2005. Upon meeting Barlow, Detective Robinson told him that they would not discuss Barlow's case. And, indeed, during the journey to Lafayette there was no conversation regarding Barlow's case. Barlow did not request an attorney while in Detective Robinson's presence. Tr. p. 40.

On October 5, 2005, after returning to Lafayette, Detectives Robinson and Johnson were with Barlow for approximately forty-five minutes to one hour before the interrogation began. The three men ate supper together and talked about Barlow's musical aspirations. At approximately 6:25 p.m., Detective Johnson advised Barlow of his Miranda rights. The detective gave Barlow a copy of the advisement of rights and waiver form, which Barlow initialed to indicate his understanding. Barlow signed the waiver of rights form. Id. at 44, 466, 520; State's Ex. 1. Between 6:25 p.m. and 8:30 p.m., Barlow gave an audiotaped statement to Detective Johnson, confessing to the crimes at issue herein.

The next day, Barlow was again advised of his Miranda rights and again waived them. He gave another audiotaped statement providing more details of his rape of N.G. At no time while in the presence of the detectives did Barlow request an attorney or ask to speak to his father. Barlow testified that he did not ask for an attorney while the tape recorder was running and that he invoked his rights but spoke to the police anyway. Id. at 82-83. On appeal, Barlow directs us to his testimony in which he disputes the detectives' account of what occurred when the tape recorder was not on.[8] This, however, is a request that we

[8] Barlow argues that we should impose a new rule of law in Indiana that all custodial interrogations in places of detention must be recorded. It is well established, however, that the Indiana Constitution does not require

reweigh the evidence and judge the credibility of witnesses—a practice in which we do not engage when reviewing the admissibility of evidence. There is sufficient evidence in the record supporting the trial court's conclusion that Barlow did not invoke his Miranda rights. Consequently, the trial court did not abuse its discretion in admitting Barlow's confessions.

III. Motions for Mistrial

Barlow next argues that the trial court erred by denying his motions for mistrial. The decision to grant or deny a motion for mistrial is entrusted to the trial court's sound discretion because the trial court is in the best position to evaluate the circumstances of an allegedly prejudicial event and to assess its impact on the jury. Kavanaugh v. State, 695 N.E.2d 629, 634 (Ind. Ct. App. 1998). We afford the trial court's ruling on a motion for mistrial great deference on appeal. Booher v. State, 773 N.E.2d 814, 820 (Ind. 2002). When reviewing the trial court's denial of a motion for mistrial, we will examine whether the movant was placed in a position of grave peril to which he should not have been subjected. Kavanaugh, 695 N.E.2d at 632. The gravity of the peril is a function of the probable persuasive effect of the statement or conduct and not of the degree of the conduct's impropriety. Id.

A mistrial is an extreme remedy that is warranted only when no other curative measure, such as an admonishment, will rectify the situation. Hatcher v. State, 762 N.E.2d 170, 174 (Ind. Ct. App. 2002). Reversal is seldom required when the trial court has admonished the jury to disregard a statement or certain conduct. Simmons v. State, 760

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police officers to record custodial interrogations in places of detention. Gasper v. State, 833 N.E.2d 1036 (Ind. Ct. App. 2005), trans. denied; Stoker v. State, 692 N.E.2d 1386 (Ind. Ct. App. 1998). We decline Barlow's invitation to reject this well-accepted rule of law.

N.E.2d 1154, 1162 (Ind. Ct. App. 2002). An admonishment is presumed to cure any error resulting from the admission of evidence, and juries are presumed to follow instructions to disregard such evidence. Stephenson v. State, 742 N.E.2d 463, 483 (Ind. 2001). The determination of whether a defendant was so prejudiced that the admonishment could not cure the error is one that must be determined by examining the facts of the particular case. Glenn v. State, 796 N.E.2d 322, 325 (Ind. Ct. App. 2003).

At trial, N.G. testified that when she awoke on the couch, Barlow was standing over her. Tr. p. 254. N.G., however, had been unable to positively identify Barlow as the intruder. Consequently, Barlow objected and moved for a mistrial. The trial court sustained the objection and admonished the jury to disregard N.G.'s testimony regarding the identity of the intruder but denied the motion for a mistrial.

Later, another witness—not one of the victims—testified that Barlow had committed all of the crimes. Barlow objected and moved for a mistrial because the witness did not have personal knowledge of the person who had committed the offenses. The trial court sustained the objection and admonished the jury to disregard the State's question and the witness's response but it denied the motion for a mistrial.

The trial court, therefore, admonished the jury to disregard the problematic testimony in its entirety. Barlow has not established that he was so prejudiced by the testimony that the admonishments were insufficiently curative. Consequently, we find that the trial court properly denied the motions for mistrial.

IV. Sentencing

Barlow does not dispute the length of the individual sentences imposed by the trial court. Instead, he argues that the trial court erred by ordering certain sentences be served consecutively. In particular, Barlow contends that the trial court considered improper aggravators and overlooked certain mitigators and that, because the aggravators and mitigators are allegedly in equipoise, consecutive sentences were inappropriate.

Sentencing determinations are within the discretion of the trial court. Fuller v. State, 852 N.E.2d 22, 26 (Ind. Ct. App. 2006), trans. denied. Indiana Code section 35-50-1-2(c) provides that in determining whether a defendant's sentences are to be served consecutively or concurrently, the trial court may consider aggravating and mitigating circumstances. Our Supreme Court has heightened the statutory requirement, mandating that a trial court find at least one aggravating circumstance to support an order of consecutive sentences. Ortiz v. State, 766 N.E.2d 370, 377 (Ind. 2002).

Moreover, where, as here, the consecutive sentences are not mandated by statute, we must examine the record to ensure that the trial court explained its reasons for selecting the sentence imposed. Id. The trial court's statement of reasons must include: (1) the identification of all significant aggravating and mitigating circumstances; (2) the specific facts and reasons that led the court to find the existence of each such circumstance; and (3) an articulation demonstrating that the mitigating and aggravating circumstances have been evaluated and balanced in determining the sentence. Id.

Where, as here, the amended sentencing scheme applies,[9] it is not clear whether the Ortiz rule still requires the trial court to find at least one aggravator and to include a sentencing statement in its decision. For our purposes herein, however, we need not answer that question. We will assume for argument's sake that the trial court was required, pursuant to Ortiz, to find at least one aggravator to support its order of consecutive sentences.

Here, the trial court found at least two proper aggravating factors. First, it considered the nature and circumstances of the crime to be an aggravator. See McCann v. State, 749 N.E.2d 1116, 1120 (Ind. 2001) (holding that in general, the nature and circumstances of a crime is a proper aggravator). Barlow broke into dwellings during early morning hours when the residents, mostly women and children, were at home and asleep. He threatened them with a knife, confined them, placed pillowcases over two of the victims' heads and tightened the pillowcases around their necks to a point that they had difficulty breathing, and inflicted physical injury upon two of them. These circumstances go beyond an average burglary in which the burglar seeks to avoid detection by or confrontation with the residents of the dwelling he is burglarizing. Consequently, the trial court properly found the nature and circumstances of these crimes to be an aggravator.

Additionally, the trial court found that the fact that Barlow's crimes were part of an escalating crime spree was an aggravator. It is well established that the fact of multiple victims or crimes—and here, there were both—constitutes a valid aggravating factor that a

[9] Indiana's sentencing scheme was amended effective April 25, 2005, to incorporate advisory sentences rather than presumptive sentences and to comply with the holdings in Blakely v. Washington, 542 U.S. 296 (2004), and Smylie v. State, 823 N.E.2d 679 (Ind. 2005). See Ind. Code § 35-38-1-7.1, § 35-50-2-1.3. Barlow

trial court may consider in imposing consecutive sentences. O'Connell v. State, 742 N.E.2d 943, 952 (Ind. 2001). That rule is especially strong when, as here, the defendant committed separate crimes against separate victims. Id. Thus, the trial court did not abuse its discretion by identifying Barlow's crime spree, which included multiple, separate, escalating crimes and multiple victims, as an aggravator supporting the imposition of consecutive sentences.

Barlow also argues that the trial court erred by declining to find certain mitigating circumstances, namely, that he fled when confronted during the Horan burglary, he was employed at the time of his arrest, he has a lengthy employment history, he has no prior felony convictions, and he has two dependent children. Barlow, however, develops no argument and cites no authority in support of these mitigating circumstances. He fails to establish that these alleged mitigators are significant or clearly supported by the record. See Carter v. State, 711 N.E.2d 835, 838 (Ind. 1999) (holding that a defendant must establish that proffered mitigators are both significant and clearly supported by the record). Thus, we cannot conclude that the trial court abused its discretion in declining to find any significant mitigating circumstances. Because the trial court found at least two proper aggravating factors and no mitigating circumstances, it did not abuse its discretion in ordering some of Barlow's sentences to be served consecutively.

The judgment of the trial court is affirmed.

FRIEDLANDER, J., and CRONE, J., concur.

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committed these offenses and was sentenced after April 25, 2005; consequently, the amended version of the sentencing scheme applies.